

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00

EB-08 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 SS-15 STR-04 ITC-01 TRSE-00

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 6377

INFO AMEMBASSY BANGKOK

AMEMBASSY JAKARTA

AMCONSUL HONG KONG

AMEMBASSY MANILA

AMEMBASSY SINGAPORE

AMEMBASSY TOKYO

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E.O. 11652: N/A

TAGS: ASEAN, ECON, EALR, EIND, ETRD, MY

SUBJECT: TEXT OF MINISTERIAL AGREEMENT ON ASEAN PREFERENTIAL

TRADING ARRANGEMENTS

1. SUMMARY: THE TEXT OF THE SUBJECT AGREEMENT RECENTLY SIGNED IN MANILA FURTHER DEFINES THE WAYS, MEANS AND DIRECTION OF ASEAN ECONOMIC COOPERATION BUT LEAVES IMPLEMENTATION TO SUBSEQUENT NEGOTIATIONS. THE NUMBER OF CAVEATS CONFIRMS THE HESITANCY OF SOME MEMBER COUNTRIES. SOME PROVISIONS APPEAR DISCRIMINATORY BUT EXTENT OF ADVERSE EFFECT ON U.S. TRADE EXPECTED TO BE SMALL. AGREEMENT EXPECTED TO BE USED TO DEMONSTRATE PROGRESS ON ANNIVERSARY OF BALI SUMMIT.

2. WE HAVE BEEN PROVIDED DRAFT OF BASIC AGREEMENT ON ASEAN PREFERENTIAL TRADING ARRANGEMENTS SIGNED BY ASEAN FOREIGN MINISTERS IN MANILA ON FEBRUARY 24. PRINCIPAL POINTS ARE SUMMARIZED BELOW.

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COPY OF TEXT BEING POUCHED TO ALL ADDRESSEES.

3. MINISTERS AGREED THAT COUNTRIES WOULD COOPERATE WITH RESPECT TO BASIC COMMODITIES, ESPECIALLY FOOD AND ENERGY; PROVISION OF MARKET SUPPORT FOR PRODUCTS OF ASEAN INDUSTRIAL PROJECTS; EXPANSION OF INTRA-ASIAN TRADE AND INCREASE IN USE OF RAW MATERIALS AVAILABLE IN REGION. THEY SPECIFICALLY AGREED TO ADOPT FOLLOWING INSTRU-

MENTS FOR PREFERENTIAL TRADING AGREEMENTS: LONG-TERM QUANTITY CONTRACTS; FINANCIAL SUPPORT AT PREFERENTIAL INTEREST RATES FOR PURCHASES; PREFERENCE IN PROCUREMENT BY GOVERNMENT AGENCIES; EXTENSION OF TARIFF PREFERENCES; LIBERALIZATION OF NON-TARIFF BARRIERS, AND OTHER MEASURES.

4. WITH RESPECT TO PREFERENCES FOR PROCUREMENT OF GOVERNMENT TENDERS, MINISTERS AGREED TO SEND ATO CONTRACTING STATES PRE-TENDER NOTICES FOR INTERNATIONAL TENDERS ON PROCUREMENT BY GOVERNMENT ENTITIES AND TO QUOTE ACCORD EACH OTHER A PREFERENTIAL MARGIN OF 2 AND ONE-HALF PERCENT WHICH SHOULD NOT EXCEED U.S.\$40,000 WORTH OF PREFERENCES PER TENDER IN RESPECT OF INTERNATIONAL TENDERS FOR GOVERNMENT PROCUREMENT OF GOODS AND AUXILLIARY SERVICES FROM UNTIED LOANS SUBMITTED BY ASEAN COUNTRIES VIS-A-VIS NON-ASEAN COUNTRIES. END QUOTE.

5. OTHER IMPORTANT POINTS IN AGREEMENT AS FOLLOWS: TARIFF PREFERENCES TO BE ACCORDED ON PRODUCT-BY-PRODUCT BASIS; CONCESSIONS TO BE EXTENDED ON AN ASEAN MOST-FAVORED NATION BASIS; SUPPLEMENTARY AGREEMENTS WILL SPELL OUT EXTENT AND NATURE OF PREFERENCES TO BE ACCORDED TO PRODUCTS OF ASEAN INDUSTRIAL PRODUCTS; ASEAN COUNTRIES SUFFERING SERIOUS INJURY MAY SUSPEND PREFERENCES.

6. ASEAN COMMITTEE ON TRADE AND TOURISM HAS BEEN TASKED WITH CONDUCT OF NEGOTIATIONS TO IMPLEMENT PREFERENTIAL TRADING ARRANGEMENTS OUTLINED IN THIS AGREEMENT. COMMITTEE'S DECISIONS WILL BE BY CONSENSUS AND ASEAN SECRETARIAT WILL MONITOR IMPLEMENTATION OF AGREEMENT. IN CASE OF DISPUTES, COMMITTEE LIMITED OFFICIAL USE

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MAY, AT REQUEST OF DISPUTANTS, PLAY MODERATOR'S ROLE. THIS NOTWITHSTANDING, ANY ASEAN COUNTRY MAY UNILATERALLY SUSPEND ANY CONCESSION IF IT FEELS CIRCUMSTANCES SERIOUS ENOUGH TO WARRANT SUCH A STEP.

7. COMMENT: SINGAPORE HIGH COMMISSION HERE SAYS THAT DRAFT AGREEMENT WAS SIGNED WITHOUT SIGNIFICANT CHANGES. BY ESTABLISHING A FRAMEWORK FOR PREFERENTIAL TRADING ARRANGMENTS AND DESIGNATING A SPECIFIC ENTITY TO CONDUCT TRADE NEGOTIATIONS, THE AGREEMENT REPRESENTS A SMALL BUT IMPORTANT STEP FORWARD IN THE SLOW DEVELOPMENT OF ASEAN ECONOMIC COOPERATION. HOWEVER, THE LARGE NUMBER OF CAVEATS, EXCEPTIONS AND RESERVATIONS, THE INCLUSION OF A LIBERAL ESCAPE CLAUSE PROVISION AND THE ADOPTION OF A COMMODITY-BY-COMMODITY APPROACH IN ACCORDING TARIFF PREFERENCES CONFIRMS THAT A LOWEST-COMMON-DENOMINATOR APPROACH WAS REQUIRED TO REACH AGREEMENT AND SUGGESTS THAT IMPLEMENTATION OF THE AGREEMENT WILL BE SLOW AND THE COVERAGE NARROW.

8. ARTICLE 8 PARA 2 OF THE AGREEMENT STATES THAT WHERE TARIFF

PREFERENCES "HAVE BEEN NEGOTIATED" ON MULTILATERAL OR BILATERAL BASIS, SUCH CONCESSIONS SHOULD EXTEND TO ALL ASEAN STATES ON MFN BASIS. WE ARE UNCERTAIN WHETHER THIS LANGUAGE REPRESENTS IMPRECISE DRAFTING OR A DELIBERATE INTENT TO EXCLUDE ANY TARIFF PREFERENCES WHICH MAY BE NEGOTIATED IN THE FUTURE.

9. THE P43-TENDER NOTICES TO CONTRACTING STATES APPEAR DISCRIMINATORY, ALTHOUGH THE ACTUAL DAMAGE TO U.S. TRADE IS EXPECTED TO BE SMALL OR NOMINAL. SIMILARLY, IN OUR VIEW, THE PREFERENTIAL MARGIN ON GOVERNMENT PROCUREMENT APPEARS DISCRIMINATORY BUT IS NOT EXPECTED TO SERIOUSLY HAMPER US BIDDERS SINCE ASEAN FIRMS DO NOT GENERALLY REPRESENT OUR MOST SERIOUS COMPETITION AND THE SMALL MARGIN OF PREFERENCE WOULD BE EFFECTIVE ON ONLY SMALLEST TENDERS WHICH ARE GENERALLY OF LEAST INTEREST TO US FIRMS.

10. THE CONTRACTING PARTIES ARE UNDOUBTEDLY AWARE OF THE LIMITED OFFICIAL USE

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REALITIES OF LDC VOTING POWER IN THE GATT. WE DOUBT, THEREFORE, THAT THE EVENTUAL NEED TO CONSIDER THE AGREEMENT IN THAT FORUM HAD ANY SIGNIFICANT BEARING ON THE FORMULATION OF THE AGREEMENT.

11. BY LEAVING IMPLEMENTATION FOR SUBSEQUENT NEGOTIATION, THE MEMBER COUNTRIES OF ASEAN WERE ABLE TO ARRIVE AT AN AGREEMENT WHICH FURTHER DEFINES THE DIRECTION OF ASEAN ECONOMIC COOPERATION. THE EXISTENCE OF THE AGREEMENT WILL NO DOUBT BE USED ON THE ANNIVERSARY OF THE BALI SUMMIT TO DEMONSTRATE THE EXTENT OF PROGRESS IN THIS AREA. END COMMENT. UNDERHILL

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